

IN THE WATER COURT OF THE STATE OF MONTANA  
LOWER MISSOURI DIVISION  
MUSSELSHELL RIVER ABOVE ROUNDUP BASIN (40A)  
PRELIMINARY DECREE

\* \* \* \* \*

CLAIMANTS: Checkerboard Cattle Company LLC; Jeffrey M.  
& Shauna R. Eagleton Revocable Trust

**CASE 40A-0398-R-2022**  
40A 20660-00  
40A 20661-00

**NOTICE OF FILING OF MASTER'S REPORT**

This Master's Report was filed with the Montana Water Court on the above stamped date. Please review this report carefully.

You may file a written objection to this Master's Report within **10 days** of the stamped date if you disagree or find errors with the Master's findings of fact, conclusions of law, or recommendations. Rule 23, W.R.Adj.R. If the Master's Report was mailed to you, the Montana Rules of Civil Procedure allow an additional 3 days to be added to the 10-day objection period. Rule 6(d), M.R.Civ.P. If you file an objection, you must serve a copy of the objection to all parties on the service list found at the end of the Master's Report. The original objection and a certificate of mailing to all parties on the service list must be filed with the Water Court.

If you do not file a timely objection, the Water Court will conclude that you agree with the content of this Master's Report.

**MASTER'S REPORT**

Water Right Claims 40A 20660-00 and 40A 20661-00 appeared in the Preliminary Decree for the Musselshell River, above Roundup (Basin 40A). These claims received issue remarks. Issue remarks result from Department of Natural Resources and Conservation ("DNRC") claims examination or by Water Court order. Claims examination confirms the historical use of water right claims and identifies issues with claims. If claims examination cannot confirm some aspect of a claim, an issue remark is

added to the claim. These claims did not receive any objections or notices of intent to appear.

The Court consolidated these claims into Water Court Case 40A-0398-R-2022 on November 2, 2022. The consolidation order set a filing deadline by which Claimant Jeffrey M. and Shauna R. Eagleton Revocable Trust was to file information resolving the issue remarks. The Court received responsive information on November 9, 2022.

### **FINDINGS OF FACT**

1. The above-captioned claims appeared with the following issue remarks:

AN AMENDMENT WAS SUBMITTED ON 04/08/2016 REQUESTING TO AMEND THE FLOW RATE. THE AMENDMENT WAS NOT PROCESSED. THE AMENDMENT WILL BE REVIEWED AFTER THE ISSUANCE OF THE PRELIMINARY DECREE.

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE FILED ON THE SAME FORMERLY DECREED WATER RIGHT. THE SUM OF THE CLAIMED FLOW RATES EXCEEDS THE 50 MINER'S INCHES DECREED IN CASE NO. 3509, MEAGHER COUNTY. 40A 20660-00, 40A 20661-00.

THE CLAIMED FLOW RATE EXCEEDS THE 17 GPM PER ACRE GUIDELINE AND CANNOT BE CONFIRMED DUE TO LACK OF DATA. THE FLOW RATE EQUALS 31.00 GPM PER ACRE.

2. The amendment referenced in the issue remark on each claim requests the flow rate of each claim be reduced by half, from 50 Miner's inches to 25 Miner's inches.

3. 25 Miner's Inches is approximately 0.62 cubic feet per second, or 280.50 gallons per minute (gpm).

4. The November 9, 2022 is a statement filed by Jeffrey M. and Shauna R. Eagleton Revocable Trust. Trustees Jeffrey M. and Shauna R. Eagleton state they agree with the requested amendments to these claims.

5. The flow rate of each above-captioned claim should be described as 280.50 gpm.

6. The issue remarks should be removed from these claims.

### **APPLICABLE LAW**

1. A properly filed statement of claim is prima facie proof of its content. Section 85-2-227, MCA. The prima facie status of a claim may be overcome by a

preponderance of the evidence. Section 85-2-227, MCA; Rule 19, W.R.Adj.R. A preponderance of the evidence is evidence that shows a fact is “more probable than not.” *Hohenlohe v. State*, 2010 MT 203, ¶ 33, 357 Mont. 438, 240 P.3d 628.

2. The Water Court must weigh an issue remark, and the information resulting in that issue remark, against the claimed water right. Section 85-2-247(2), MCA.

3. The Water Court must resolve all issue remarks not resolved through the objection process. Section 85-2-248, MCA. The Court must review information in the claim file or obtained by the Court to determine if there is a sufficient basis to resolve the remarks. 85-2-248(3), MCA.

4. If a Claimant agrees to reduce or limit an element of a claim, the Court may accept the requested modification without further evidence overcoming the appropriate burden of proof. Rule 17(c), W.R.Adj.R.

### **CONCLUSIONS OF LAW**

1. The flow rate of each above-captioned claim may be modified as described in the Findings of Fact because all claimants agree to a reduction to the flow rate of each claim.

2. The evidence in the record and the proposed modification to each claimed flow rate provide the Court with a sufficient basis to resolve and remove the issue remarks from the above-captioned claims.

### **RECOMMENDATIONS**

Based upon the above Findings of Fact and Conclusions of Law, this Master recommends that the Court make the changes specified in the Findings of Fact to correct the Preliminary Decree for this Basin. Post-decree Abstracts of Water Right Claims are served with this Report to confirm the recommended changes have been made in the state’s centralized record system.

**ELECTRONICALLY SIGNED AND DATED BELOW.**

**Service via USPS Mail:**

Checkerboard Cattle Company LLC  
315 Groveland St  
Orlando, FL 32804

Jeffrey M. & Shauna R. Eagleton Revocable Trust  
Jeffrey M. & Shauna R. Eagleton Trustees  
~~45 John Sears Rd~~  
**32 Spring Creek Rd**  
Martinsdale, MT 59053

**Note: Service List Updated 1-12-23**

**POST DECREE**  
**ABSTRACT OF WATER RIGHT CLAIM**  
**MUSSELSHELL RIVER, ABOVE ROUNDUP**  
**BASIN 40A**

**Water Right Number:** 40A 20660-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** CHECKERBOARD CATTLE COMPANY LLC  
315 GROVELAND ST  
ORLANDO, FL 32804 4052  
  
EAGLETON, JEFFREY M & SHAUNA R REVOCABLE TRUST  
EAGLETON JEFFREY M & SHAUNA R TRUSTEES  
32 SPRING CREEK RD  
MARTINSDALE, MT 59053

**Priority Date:** APRIL 1, 1921  
**Type of Historical Right:** DECREED  
**Purpose (use):** IRRIGATION  
**Irrigation Type:** FLOOD  
**Flow Rate:** 280.50 GPM  
**Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.  
**Climatic Area:** 4 - MODERATELY LOW  
**Maximum Acres:** 18.00  
**Source Name:** SPRING, UNNAMED TRIBUTARY OF NORTH FORK MUSSELSHELL RIVER  
**Source Type:** GROUNDWATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NENWNE	15	9N	10E	MEAGHER

**Period of Diversion:** MAY 1 TO SEPTEMBER 30  
**Diversion Means:** HEADGATE  
**Period of Use:** MAY 1 TO SEPTEMBER 30

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	5.00		NWNE	15	9N	10E	MEAGHER
2	4.00		SENE	15	9N	10E	MEAGHER
3	9.00		SWNE	15	9N	10E	MEAGHER
<b>Total:</b>	18.00						

**Remarks:**

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

20659-00	20660-00	20661-00	20663-00
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**POST DECREE  
ABSTRACT OF WATER RIGHT CLAIM  
MUSSELSHELL RIVER, ABOVE ROUNDUP  
BASIN 40A**

**Water Right Number:** 40A 20661-00 STATEMENT OF CLAIM  
**Version:** 3 -- POST DECREE  
**Status:** ACTIVE

**Owners:** CHECKERBOARD CATTLE COMPANY LLC  
315 GROVELAND ST  
ORLANDO, FL 32804 4052  
  
EAGLETON, JEFFREY M & SHAUNA R REVOCABLE TRUST  
EAGLETON JEFFREY M & SHAUNA R TRUSTEES  
32 SPRING CREEK RD  
MARTINSDALE, MT 59053

**Priority Date:** APRIL 1, 1921  
**Type of Historical Right:** DECREED  
**Purpose (use):** IRRIGATION  
**Irrigation Type:** FLOOD  
**Flow Rate:** 280.50 CFS  
**Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.  
**Climatic Area:** 4 - MODERATELY LOW  
**Maximum Acres:** 18.00  
**Source Name:** SPRING CREEK  
**Source Type:** SURFACE WATER

**Point of Diversion and Means of Diversion:**

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		SEWN	15	9N	10E	MEAGHER

**Period of Diversion:** MAY 1 TO SEPTEMBER 30  
**Diversion Means:** HEADGATE  
**Period of Use:** MAY 1 TO SEPTEMBER 30

**Place of Use:**

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	5.00		NWNE	15	9N	10E	MEAGHER
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